

REMARKS/ARGUMENTS

Reconsideration and continued examination of the above-identified application are respectfully requested.

In this amendment, claim 1 has been amended to recite that the cathode capacity is greater than the anode capacity. Support for this amendment can be found, for instance, in paragraph [0052] and in the examples of the present application, wherein a greater cathode capacity was used compared to the anode capacity. Claim 59 has been amended to correct a grammatical error. Further, the applicants believe that this amendment does not raise any new questions of patentability, and, further, the applicants believe that the amendment places the application in a condition for allowance.

Accordingly, entry of this amendment is respectfully requested.

Summary of Examiner's Interview

The undersigned appreciates the telephone interview with Examiner Maples on May 11, 2009. In the telephone interview, the Office Action of November 13, 2008 was discussed. The missing documents from the Information Disclosure Statement filed July 6, 2004 were discussed and the undersigned indicated to the Examiner that the U.S. Patent and Trademark Office acknowledged receipt of these documents by a date-stamped postcard and, therefore, the U.S. Patent and Trademark Office misplaced them. The undersigned agreed to re-submit the missing references with a copy of the postcard showing that the U.S. Patent and Trademark Office previously received these documents. Further, the amendment to claim 1 was discussed.

Objection to claim 59

At page 2 of the final Office Action, the Examiner objected to claim 59 for grammatical reasons.

In response, claim 59 has been amended to correct this grammatical error.

Accordingly, this objection should be withdrawn.

Rejection of claims 1, 5-21, 23-26, 50-52, and 58 under 35 U.S.C. §112, first paragraph

At page 2 of the Office Action, the Examiner rejects claims 1, 5-21, 23-26, 50-52, and 58 under 35 U.S.C. §112, first paragraph, for enablement reasons. The Examiner believes that the ratio of the cathode capacity should be recited in the claims. This rejection is respectfully traversed.

As discussed in the telephone interview, the applicants believe that other cathode capacity/anode capacity ratios can be used as, for instance, acknowledged at paragraph [0052] in the present application, as well as in the examples. In view of the support in the present application and the amendment to claim 1, the applicants believe that one skilled in the art would be enabled with respect to the invention recited in claim 1.

Accordingly, this rejection should be withdrawn.

CONCLUSION


In view of the foregoing remarks, the applicant respectfully requests the reconsideration of this application and the timely allowance of the pending claims.

If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0925. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said

U.S. Patent Application No. 10/820,638
Amendment After Final dated May 12, 2009
Reply to Final Office Action of November 13, 2008

Deposit Account.

Respectfully submitted,



Luke A. Kilyk
Reg. No. 33,251

Atty. Docket No. 3050-004
KILYK & BOWERSOX, P.L.L.C.
400 Holiday Court, Suite 102
Warrenton, VA 20186
Tel.: (540) 428-1701
Fax: (540) 428-1720